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Attorneys for Plaintiff Konala, LLC

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH**

KONALA, LLC, an Idaho limited liability
company,

Plaintiff,

v.

MESSNER REEVES LLP, a Colorado limited
liability partnership; and INBE CAPITAL LLC,
a Wyoming limited liability company,

Defendants.

**DECLARATION OF JENNIFER
SCHRACK DEMPSEY IN SUPPORT
OF MOTION FOR ENTRY OF
DEFAULT**

Case No.: 2:24-cv-00195-HCN

District Judge Howard C. Nielson, Jr.

Magistrate Judge Jared C. Bennett

Pursuant to 28 U.S.C. § 1746, Jennifer Schrack Dempsey declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct as follows:

1. I am over the age of eighteen (18) years and not a party to the above-entitled action.

I am an attorney for the Plaintiff in this action and make this Declaration to show the fact and manner of compliance with the provisions of Rule 55 of the Federal Rules of Civil Procedure.

2. On or around March 25, 2024, Plaintiff's process server, who is above the age of 18 and who is not a party to this action, attempted to personally serve the registered agent of Defendant INBE Capital, LLC ("Defendant INBE") listed on their most recent Annual Report filed with the Wyoming Secretary of State. A true and correct copy of Defendant INBE's most recent Annual Report filed with the Wyoming Secretary of State on November 30, 2023, is attached here as **Exhibit A**. While attempting to personally serve Defendant INBE's registered agent, Buffalo Registered Agents, LLC, Plaintiff's process server was informed that the registered agent was no longer in business.

3. On March 25, 2024, Plaintiff then served Defendant INBE with a true and correct copy of the Complaint, Summons in a Civil Action, and Consent to Jurisdiction of a Magistrate Judge regarding this lawsuit. A process server, who is above the age of 18 and who is not a party to this action, served a copy of those documents to an authorized party, Savannah Bell, at the principal address and mailing address of Defendant INBE: 30 North Gould Street, Sheridan, WY, 82801. (ECF No. 8.)

4. Pursuant to Rule 12(a)(1) of the Federal Rules of Civil Procedure, Defendant INBE was required to file a responsive pleading within 21 days of service of the Complaint and Summons. Thus, INBE was to respond to Konala's complaint on or before April 15, 2024.

5. INBE did not file and serve an answer on or before April 15, 2024.

6. On April 30, 2024, the Court issued a Docket Text Order that required Konala to file an amended Complaint that affirmatively alleged the citizenship of all members or partners of Konala, INBE, and the other defendant, Messner Reeves LLP. (ECF No. 14.)

7. On May 10, 2024, Konala filed its First Amended Complaint ("Konala's FAC") in response to the Court's Docket Text Order. (ECF No. 15.)

8. On May 15, 2024, INBE was served with Konala's FAC and Summons in a Civil Action. A process server, who is above the age of 18 and who is not a party to this action, served a copy of those documents to an authorized party, Sandra Johnson, at the principal address and mailing address of Defendant INBE: 30 North Gould Street, Sheridan, WY, 82801. (ECF No. 17.)

9. Pursuant to Federal Rule of Civil Procedure 12(a)(1), INBE had until June 5, 2024, to respond to Konala's FAC.

10. On June 6, 2024, purported counsel for INBE, Mariah Marey of the law firm Byrd Campbell, requested a two-week extension of time to respond, which Konala's counsel granted as a professional courtesy. Attached hereto as **Exhibit B** is a true and correct copy of email communications from and to Mariah Marey of the law firm Byrd Campbell.

11. After not receiving any proposed joint motion from counsel for INBE, counsel for Konala reached out again to inquire about the proposed joint motion and confirmation that counsel for INBE was in fact representing INBE in the instant lawsuit. *Id.*

12. As of this writing, neither Konala nor its counsel have received any communication from the law firm Byrd Campbell, Maria Manley, or INBE.

13. Defendant INBE has failed to plead or otherwise defend Konala's FAC within the time required by the Federal Rules of Civil Procedure or as permitted by any extension.

14. Upon information and belief, Defendant INBE is not an infant, incompetent, or in active military service (50 U.S.C. § 520).

DATED this 9th day of July 2024.

/s/ Jennifer Schrack Dempsey
Jennifer Schrack Dempsey

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 9th day of July 2024 I served the foregoing on the following parties in the manner indicated below:

CM/ECF Registered Participant:

Andres M. Hermosillo
GORDON REES SCULLY MANSUKHANI, LLP
555 Seventeenth Street, Ste. 3400
Denver, CO 80202
ahermosillo@grsm.com

Non-CM/ECF Registered Participant Via first class mail, postage prepaid, and email to:

INBE Capital LLC
30 N. Gould Street
Sheridan, WY 82801
craig@theinbegroup.com

INBE Capital LLC
Attn: Buffalo Registered Agents LLC
412 N. Main St. Ste 100
Buffalo, WY 82834

/s/ Jennifer Schrack Dempsey
Jennifer Schrack Dempsey